GOVERNMENT OF MYSORE

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT (LABOUR)

Labour Dispute :—Industrial Dispute between the workmen and the management of Canara Transport, Company, Mangalore.

Award of the Industrial Tribunal, Bangalore—Published.

Read the following papers :

(i) Letter No. I. T. 2338/66-67, dated 19th January 1967 from Shri A. Panchakshariah, Presiding Officer, Industrial Tribunal Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE

Dated 19th January 1967

Present

Sri A. Panchakshariah, B.A., (HONS.), LL.B., Presiding Officer.

I. D. No. 150 *of* 1966.

Workmen of Canara Transport, Company, Mangalore,
First Party

Vs.

Management of Canara Transport, Company, Mangalore,
Second Party

Appearances

For First Party :—Sri Srinivasa, Secretary, S. K. Automobile and Engineering Workers' Union, Maidan Road, Mangalore.

For Second Party :—Sri K. Shashidhar Rao, President, General Managements' Association, Mangalore.

Reference

G.O. No. PLM 364 LLD 66, Bangalore, dated 5th August 1966.

AWARD

The Government of Mysore, in their Order No. PLM 364 LLD 66, dated 5th August 1966, have referred under Section 10. (1) (*d*) of the Industrial Diputes Act, 1947, the points of dispute that existed between the workmen and management of Canara Transport Company, Mangalore, to this tribunal for adjudication. The points of dispute relate to the Daily Batta to the Drivers and Cleaners of the lorries under the II Party Management, annual increments of Rs. 5 and Rs. 2 to drivers and conductors, D.A. at the rate of Rs. 40 to all employees, confirmation of all employees, after completion of six months' service, introduction of Gratuity Scheme, etc. The I Party are the workmen of the Canara Transport Company, Mangalore, represented by the Secretary, S. K. Automobile and Engineering Workers' Union, Mangalore, while the II Party is the Management of the Canara Transport, Company, Mangalore. The I Party contends that the II Party owns a fleet of lorries and is doing flourishing business in goods transport. Altogether here are about 110 employees under the II Party. The II Party is financially capable of providing a decent living to its workmen. Since a long time the I Party workmen are agitating for improvement of their financial position in regard to their wages, increments daily batta and Dearness Allowances. But the II

Party was not co-operative in this behalf. The jobs of the lorry drivers and cleaners are of a nature involving heavy risks and absence from their homes. For their food and shelter whenever they go out, they have to spend a good deal of money. The daily batta paid besides the salary, mileage, etc., is intended to cover such expenses. In recent years the prices of all food articles have gone up as a cosequence of which the hotel rates for meals are exhorbitant. Therefore the workmen requested for a little increase in their existing daily batta to the drivers and conductors who go on Bombay trip. The demand is Rs. 5 per day for the drivers and Rs. 4 per day for the Cleaners.

2. There are no incremental scales of the drivers and the conductors. Therefore the workmen have demanded annual increments of Rs. 5 and Rs. 3 for the drivers and conductors respectively. The II Party has resorted to various unfair labour practices by treating all the employees as temporary employees and this is done with a view to escape the responsibility of enrolling them to the Provident Fund Scheme and also to disentitle them for leave facilities. Therefore the I Party workmen have requested for confirmation of all the employees after completion of six months' service. Regarding the Dearness Allowance, the II Party is paying only Rs. 35 per month as D.A. a flat rate to both the drivers and the conductors and the wokmen have demanded D.A. at the rate of Rs. 45 per month. Another right claimed against the Management is that of the introduction of Gratuity Scheme. The II Party has paid bonus for some years in the past up to 1963-64 and even those payments are not properly calculated and several of the employees got much less than what was actually due to them. In many years they are not paid bonus. Thus, the I Party workmen have put forward the various demands enumerated above, against the II Party.

3. The II Party Management have filed their Counter statement through Sri K. Shashidhar Rao, President of the Geneal Managements' Association. It is contended in para 1 of the counter statement that this is not an industrial dispute since a substantial number of workmen employed by the II Party have not supported the demands of the Union. Therefore it is contended that there is no industrial dispute as defined under Section 2(k) of the Industrial Disputes Act, 1947. The

II Party further contends that there are nearly 1,000 Goods Vehicles plying in Mangalore, South Kanara. This industry was according to them, a flourishing industry in the beginning but now owing to keen competition, the business has fallen down to a considerable extent. The II Party is a partnership concern running goods transport as their main business in the name and style of Kanara Transport Company, with its Head Office at Mangalore and also Offices at Bangalore, Calicut and Bombay. Owing to the restrictions imposed by the Government in the movement of food grains and also on acount of various other factors, the transprt business is adversely affected to great extent. The workmen of the II Party are paid wages which were never stagnant. The Management increased the wages of their own accord, and in cases of deficiency between the actual wage and minimum wage, by declaring bonus at 5 per cent of the basic salary. The II Party also admits that at present they are paying only Rs. 35 D.A. per month. In addition to this the drivers are entitled to mileage, batta at the rate of Rs. 1.05 for every completed 100 miles, and the Cleaners at Rs. 0.75 every completed 100 miles. Apart from this, the drivers and cleaners are also paid Line Batta according to the time required to reach the places out of South Kanara. The basic wages of workmen under the II Party are substantially higher than the basic wages of similar categories of workmen elsewhere in the locality. The demands made by the I Party workmen are unduly exaggreated beyond the capacity of the II Party. Owing to the increase in the cost of tyres and also of the spares and the cost of the diesel, the margin of profits has been considerably affected. The demand for increments at Rs. 5 and Rs. 3 has no basis. With regard to the D.A., the II Party contends that it is more than sufficient and no other concern in Mangalore of similar type is paying so much D.A. There is already one Retirement benefit to the employees, *i.e.*, the Provident Fund. If Gratuity is also introduced, it will be giving twin benefits to the workers, which the II Party is not capable of bearing. The other demands are denied. On the strength of these pleadings Issues have been framed in addition to the one named in the Order of Reference.

4. On behalf of the I Party, the Secretary of the S. K. Automobile and Engineering Workers' Union examined himself on 5th January 1967 at Mangalore Camp and closed his case. The II Party examined one of the Partners, *viz.*, Sri Achutappa

and closed their case. During the course of arguments, Sri Shashidhar Rao appearing for the II Party conceded some of the demands of the I Party. With regard to dipute No. 3, *viz.*, D.A. at Rs. 40 per month to all its employees, Sri Shashidhar Rao conceded that the II Party would pay D.A. at the rate of Rs. 40 per month to all its employees with effect from the date of the Reference and would continue to pay at the same rate in future also. Regarding item No. 4 of the points of dispute, Sri Shashidhar Rao agreed that the II Party will confirm all the employees after completion of six months of service. Similarly he also conceded item No. 6 of the points of dispute and agreed that no driver or conductor would be kept as a spare hand for more than a week. Sri Srinivasan, Secretary of the Union, appearing for the I Party workmen, did not press point of dispute No. 7. So much so there remains for consideration only points of dispute Nos. 1, 2 and 5.

5. In order to show that the II Party is capable of meeting these demands of the I Party workmen, the I Party has summoned the audited balance sheet and Profit and Loss Account of this firm for three years. Sri K. Shashidhar Rao also conceded that the II Party would be prepared to give increments at the rate of Rs. 4 to the drivers and Rs. 3 to the Cleaners with effect from 1st January 1967 and that will be only for the year 1967. The demand of the workmen is for increments at the rate of Rs. 5 to the drivers and at Rs. 3 to the cleaners. Considering the huge profits which the company is making as can be seen from the Balance Sheet, I have no doubt whatsoever that the II Party can very well pay to all its employees annual increments at the rate of Rs. 5 to drivers and at the rate of Rs. 3 to the Conductors or cleaners. So then point of dispute No. 2 is held in favour of the I Party workmen and Management is directed to give to all its employees annual increments at the rate of Rs. 5 to drivers and Rs. 3 to the conductors, and this will be with effect from 1st January 1967.

6. Regarding item No. 3, the claim of the I Party workmen is for D.A. of Rs. 40 per month to all its employees. As admitted by the I Party in their claim statement, there are only 110 employees under the II Party Company and the II Party has admitted in the counterstatement that D.A. of Rs. 25 per

month is given to all its employees. What the I Party workmen want is only an enhancement by Rs. 5. The total cost of this enhancement would not be more than Rs. 550 as extra burden to be borne by the II Party. Considering the exhorbitant cost of living and particularly in this region, I have no doubt whatsoever that the claim of the I Party workmen for D.A. at the rate of Rs. 40 per month is quite reasonable and therefore demand No. 3 in the Order of Reference is also held in favour of the employees. So far as item No. 1 Daily Batta is concerned, the II Party Management contended that the drivers who ply the lorries to Bombay, per trip are given Rs. 21 as Line Batta and the Conductors are given Rs. 10.50 as Line Batta. If the driver is paid Rs. 2 and the conductor Re. 1 as as Line Batta while the conductors will be paid Re. 1. M.W. 1 admits that the Bombay trip occupies 8 days. That means to say, both the drivers and the conductors are out of home for a period of 8 days. The drivers are paid Rs. 21 per trip of 8 days which means Rs. 3 per day and so far as the Conductors are concerned, it works out roughly to Rs. 1.50 per day or even a little less. This is for Bombay trip and for the Bangalore trip, the driver is paid Rs. 2 and the conductor Re. 1 as Line Batta. M. W. 1 has also said that in addition to this Line Batta, incentive mileage scheme is introduced by which for every 100 miles covered, the driver gets Rs. 1.50 and the conductors gets Rs. 0.75. Sri K. Shashidhar Rao conceded that Rs. 10 paid for Way expenses to drivers and Rs: 4 to conductors for the Bangalore trip cannot be taken into account as the same is not paid for the benefit of the driver. Therefore that cannot be set off against the claim for batta of Rs. 5 and Rs. 4. It is needless for me to say that the cost of living in Bombay and in Bangalore has gone up to such a high that even with Rs. 5 and Rs. 4 the workmen will not be able to cover their expenses. Moreover, the fact that they are away from home for nearly 8 days for Bombay trip and for nearly 2 to 3 days for the Bangalore trip, must be taken to be a sacrifice on their part. As it is, the Line Batta works out only to Rs. 3 per day for drivers and it is less than Rs. 1.50 for the conductors. What the I Party workmen have requested for is that the daily batta may be enhanced to Rs. 5 to drivers and Rs. 4 to the conductors and cleaners. Considering the financial position of the II Party and also the extra burden which the management has to bear on this account and also the exhorbitant cost of living,

I am of the opinion that the demand for daily batta of Rs. 5 to the drivers and Rs. 4 to the Cleaners is quite reasonable. The I Party workmen therefore will be entitled to daily batta of Rs. 5 per day to the drivers and Rs. 4 per day to the Cleaners irrespective of the fact whether they go to Bombay or Bangalore.

7. There remains only one other item, *i.e.*, the gratuity Scheme. Sri K. Shashidhar Rao contended that for considering the claim for introduction of a Gratuity Scheme, region-*cum*-industry basis must be the consideration and he also contended that no other similar industry in South Kanara has introduced the Gratuity Scheme and therefore the claim for introduction of this Gratuity Scheme cannot be considered. What has got to be taken into consideration in relation to the introduction of the Gratuity Scheme has been laid down in 1966 S.C. Digest of Labour Law cases, page 2 of 1966 December part. This is what their Lordships of the Supreme Court have observed :—

> "It is common place that industrial adjudication under the present circumstances is not able to provide the labour a living wage. At the best they get only a little more than the necessities of life. If the industry is a flourishing one, we do not see any reason, why the labour shall not have the benefit of both the schemes. Doubtless, the Provident Fund gives him relief, but to earn it, he contributes a part of his wage. But that in itself may not be sufficient to meet the requirements of his old age or to provide for his dependents during his life time or after his death. Gratuity is an additional form of relief for him to fall back upon. If the industry can bear the burden, there is no reason why he shall not be entitled to both the retirement benefits."

The question in this case is whether the II Party Management has the required financial capacity to meet this demand of the I Party. It is not so much the industry-*cum*-region basis that is important, but whether the Management is capable of introducing this system. Exhibits M1 to M3 are filed by the Management to show their financial position for three years prior to the claim of the workmen. A Perusal of the Profit and Loss Account for these years will clearly indicate that this is a flourishing industry and the Management is making good profit every

year and therefore is càpable of meeting these demands of the workmen in this case. As per Ex. M1 which is the Trading and Profit and Loss Account for the year ending with 30th November 1962, it is seen that the II Party has realised a net profit of nearly Rs. 1,53,415.26. For the year 1963 ending with 30th November, the II Party has made a profit of Rs. 99,957.40. For the year 1964 the total net profit is Rs. 1,75,194.29. Even if all the demands put forward by the I Party workmen are totally conceded, the extra financial burden will not be more than 10 to 15 thousand of rupees a year. I am therefore of the opinion that looking at the prosperous condition of the II Party, there is no reason to deny the Scheme of Gratuity to their workmen. Accordingly the II Party Management is directed to introduce a Gratuity Scheme equivalent to one month's total earnings last drawn, on the following occasions :—

(1) Retirement,

(2) Death,

(3) termination of services,

(4) Physical or mental incapacity,

(5) voluntary resignation.

8. In the result, there will be an award in the following terms:—

(1) The II Party Management is directed to pay daily batta of Rs. 5 to the drivers and Rs. 4 to the Cleaners.

(2) The drivers will get annual increment of Rs. 5 and the Cleaners or Conductors Rs. 4 for every year of completed service.

(3) All the employees of the II Party Management will get Dearness Allowance at the rate of Rs. 40 per month.

(4) All the employees of the II Party Management, after completion of six months' service, will be confirmed.

(5) The II Party Management will introduce a Gratuity Scheme equivalent to one month's total earnings last drawn to be paid on the following occasions.

(i) Retirement,

(ii) death,

(iii) termination of services,

(iv) Physical or mental incapacity and,

(v) voluntary resignation.

(6) The II Party Management will not keep any driver or Cleaner or Conductor as a spare hand for more than one week.

Since the I Party has not pressed point of dispute No. 7 in the Order of Reference, the same is held against the I Party.

9. I pass an award in the above terms. Each party will bear its own costs.

A. PANCHAKSHARIAH,

Presiding Officer.

Industrial Tribunal.

ORDER

Bangalore dated the 28th January 1967.

S.O. 621.—WHEREAS by State Government Order No. PLM 364 LLD 66, dated 5th August 1966 the Industrial Dispute between the workmen and the Management of Canara Transport Co., Mangalore was referred to the Industrial Tribunal, Bangalore for adjudication.

AND WHEREAS the Industrial Tribunal, Bangalore has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 364 LLD 66]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,
Under Secretary to Government,
Labour and Municipal Administration Department.

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